IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 407 (MS) OF 2005

Radhe Shyam Yadav,
S/o Sri Nirudha Yadav,
Yadav Cycle Works,
Vijay Park Chawk, Ballpark Road,
Dehradun. .....Petitioners.

Versus

1. Dr. Ashok Luthara, R/o Mahendra Vihar, Ballpark Road, Dehradun.
2. Dr. Alok Ahuja, R/o near P.N.B. Stalay Hall, Dehradun.
3. Dr. Rakesh Kalara, R/o Ashirbad Nursing Home, Near Ballapark Chow, Dehradun.
4. Sri S.K. Sethi, S/o not known, C/o Dr. Ashok Luthara, Mahendra Vihar, Ballpark Road, Dehradun.

.....Respondents.

Dated: 19.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Arvind Vashisht,, Advocate for the petitioner and Sri Kamaljit Singh, Advocate for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the orders dated 05.04.2005 passed in M.C.A. No. 154 of 2004 and order dated 04.12.2004 passed by Civil Judge (Jr. Div.) Dehradun in O.S. No. 155 of 2004.

Briefly stated, a suit was filed by the petitioner in the Court of Civil Judge (Sr. Div.), Dehradun. Along with the suit

the petitioner also filed an application under order 39 Rule 1 of the C.P.C.

Defendant nos. 1, 2 and 3/respondent appeared and filed their written statement. They have come up with a case that Khasra No. 1211, Village –Garhi Pargana Pachchwa Doon District Dehradun was owned by O.N.G.C., who executed a gift deed dated 01.12.2003 in favour of Indian Medical Association Blood Bank Society Uttaranchal on 02.12.2003 and the Society is in possession of the property.

Counsel for the respondents have disputed the possession of the petitioner and he has stated that he is not in possession. Whereas counsel for the petitioner has reiterated with regard to his possession.

In view of the aforesaid, parties are directed to maintain status quo as on today. Civil Court is directed to dispose of the suit within a period of two months from the date of production of certified copy of the order. The officer concerned shall direct for spot inspection at the time of hearing of the suit in case he is of the opinion that survey is required.

Writ petition is disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

19.05.2006
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